

AMENDED IN SENATE JULY 7, 2004
AMENDED IN ASSEMBLY JANUARY 12, 2004
CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1714

**Introduced by Committee on Judiciary (Corbett (Chair), Hancock,
Jackson, Laird, Longville, Montanez, Steinberg, and Vargas)**

February 26, 2003

An act to amend ~~Section 1281~~ *Sections 1281 and 1281.2* of the Code of Civil Procedure, relating to arbitration.

LEGISLATIVE COUNSEL'S DIGEST

AB 1714, as amended, Committee on Judiciary. Arbitration: consumer arbitration agreements.

Existing law provides for the enforcement of arbitration agreements and requires a court to vacate an arbitration award in specified circumstances.

Existing law provides that a written agreement to submit a dispute to arbitration is valid and irrevocable except upon the grounds that exist for revocation of a contract.

This bill would revise the provisions regarding the revocability of a written agreement to arbitrate, described above, to provide that these agreements may not be revoked except upon the grounds that exist for rescission of a contract, *and would also make a conforming change in that regard.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1281 of the Code of Civil Procedure is amended to read:

1281. A written agreement to submit to arbitration an existing controversy or a controversy thereafter arising is valid, enforceable and irrevocable, save upon the grounds that exist for the rescission of any contract.

SEC. 2. Section 1281.2 of the Code of Civil Procedure is amended to read:

1281.2. On petition of a party to an arbitration agreement alleging the existence of a written agreement to arbitrate a controversy and that a party thereto refuses to arbitrate ~~such that~~ controversy, the court shall order the petitioner and the respondent to arbitrate the controversy if it determines that an agreement to arbitrate the controversy exists, unless it determines that:

(a) The right to compel arbitration has been waived by the petitioner; or

(b) Grounds exist for the ~~revocation~~ rescission of the agreement.

(c) A party to the arbitration agreement is also a party to a pending court action or special proceeding with a third party, arising out of the same transaction or series of related transactions and there is a possibility of conflicting rulings on a common issue of law or fact. For purposes of this section, a pending court action or special proceeding includes an action or proceeding initiated by the party refusing to arbitrate after the petition to compel arbitration has been filed, but on or before the date of the hearing on the petition. This subdivision shall not be applicable to an agreement to arbitrate disputes as to the professional negligence of a health care provider made pursuant to Section 1295.

If the court determines that a written agreement to arbitrate a controversy exists, an order to arbitrate ~~such that~~ controversy ~~may~~ shall not be refused on the ground that the petitioner's contentions lack substantive merit.

If the court determines that there are other issues between the petitioner and the respondent ~~which that~~ are not subject to arbitration and ~~which that~~ are the subject of a pending action or special proceeding between the petitioner and the respondent and that a determination of ~~such those~~ issues may make the arbitration

1 unnecessary, the court may delay its order to arbitrate until the
2 determination of ~~such~~ *those* other issues or until ~~such~~ *an* earlier
3 time as the court specifies.

4 If the court determines that a party to the arbitration is also a
5 party to litigation in a pending court action or special proceeding
6 with a third party as set forth under *this* subdivision ~~(c)~~ *herein*, the
7 court (1) may refuse to enforce the arbitration agreement and may
8 order intervention or joinder of all parties in a single action or
9 special proceeding; (2) may order intervention or joinder as to all
10 or only certain issues; (3) may order arbitration among the parties
11 who have agreed to arbitration and stay the pending court action
12 or special proceeding pending the outcome of the arbitration
13 proceeding; or (4) may stay arbitration pending the outcome of the
14 court action or special proceeding.

